

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

Security-Sensitive Information
(LAC 33:I.601, 603, 605, 607, and 609) (OS061)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Office of the Secretary regulations, LAC 33:I.601, 603, 605, 607, and 609 (Log #OS061).

This rule adopts a new chapter in LAC 33.Part 1. The new chapter defines security-sensitive information, states who is responsible for declaring the information to be security sensitive, outlines procedures for submitting security-sensitive information, and states how such information will be handled by the department. Act No. 636 of the 2004 Regular Session requires the department to restrict access to certain security-sensitive information so that it is not distributed via the Internet and to adopt rules and regulations necessary to fully describe the information to which access is restricted. The basis and rationale for this rule are to fulfill the requirements of R.S. 30:2030(D) and to protect certain security-sensitive information from dissemination via the Internet.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 26, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS061. Such comments must be received no later than May 3, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS061. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

Title 33**ENVIRONMENTAL QUALITY****Part I. Office of the Secretary****Subpart 1. Departmental Administrative Procedures****Chapter 6. Security-Sensitive Information****§601. Scope**

A. Department of Environmental Quality records and information obtained under the Louisiana Environmental Quality Act, or in accordance with any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public unless specifically excepted or exempted by law. In accordance with law, regulation, or general practice, records and information may be made accessible to the public in a variety of ways, including but not limited to in-person on department premises, at a public library or other public facility, via request in accordance with the Louisiana Public Records Act, at a public meeting, via public notice, or via the Internet. Certain security-sensitive information shall not be publicly distributed or disseminated via the Internet by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:**.

§603. Definitions

Security-Sensitive Information—as defined in R.S. 44:3.1, security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

Distribution or Dissemination via the Internet—to make known to the public generally by posting to a web, FTP, database, or application server configured for anonymous public access under the direct control of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:**.

§605. Responsibility of Provider of Records or Information

A. As the department does not generate security-sensitive information as defined in LAC 33:I.603, it shall be the responsibility of a provider of such information to identify it as security sensitive at the time of submitting it to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:**.

§607. Procedure for Submitting Security-Sensitive Information

A. In the event that a submittal of records, documents, or information to the department contains security-sensitive information, these steps shall be followed in order to ensure that the information is marked for protection from Internet distribution or dissemination.

1. A cover sheet conspicuously labeled with the phrase “Contains Security-Sensitive Information” shall accompany the submittal. Each page or any item (e.g., any picture, map, videotape, computer disk, etc.) that contains allegedly security-sensitive information shall be clearly labeled. To the maximum extent possible, security-sensitive information shall be segregated and placed in a clearly labeled appendix to facilitate identification and handling.

2. A statement detailing the reasons for the required protection shall also accompany the submittal. It shall include all of the following:

a. the measures taken to guard against undesired disclosure of the information to others;

b. the extent to which the information has been disclosed to others and the precautions taken in connection therewith;

c. whether disclosure of the information would be likely to result in substantial harmful effects and, if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects;

d. the period of time for which protection from Internet distribution or dissemination is desired; and

e. a certification that all statements are true and correct to the best of the provider’s knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:**.

§609. Dissemination of Existing Security-Sensitive Information; Notification to Department

A. In the event that the department distributes or disseminates any information via the Internet that was in its possession prior to the adoption of this regulation, and the provider of the information considers the information to be security sensitive, it is the responsibility of the provider to notify the department via letter to the Custodian of Records, Department of Environmental Quality, Box 4303, Baton Rouge, LA 70821-4303 or by fax to (225) 219-3175. Notification shall include all information required in LAC 33:I.607 and authentication that the person making the declaration is authorized to do so. Distribution or dissemination of the material via the Internet will be restricted within three business days of notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**LOG #: OS061

Person
Preparing
Statement: Wendy McLain Dept.: DEQ

Phone: (225) 219-3159 Office: Management and Finance

Return
Address: DEQ Rule
P.O. Box 4303 Title: Security-Sensitive Information
Baton Rouge, LA 70821-4303 (LAC 33:I.Chapter 6)

Date Rule
Takes Effect: Upon promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units by the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units by the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups by the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment by the proposed rule.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Wilbert F. Jordan, Jr., Assistant Secretary

Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule adds a new chapter to Part I of Title 33 of the *Louisiana Administrative Code* that defines security-sensitive information, states who is responsible for declaring the information to be security-sensitive, outlines procedures for submitting security-sensitive information, and states how such information will be handled by the department.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act No. 636 of the 2004 Regular Session requires the department to restrict access to certain security-sensitive information so that it is not distributed via the Internet and to adopt rules and regulations necessary to fully describe the information to which access is restricted.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No increase in expenditure of funds is expected by the proposed rule.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ Yes. If yes, attach documentation.
(b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 04-05	FY 05-06	FY 06-07
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.			
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule should not result in any increase or decrease in costs to implement the proposed action.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 04-05	FY 05-06	FY 06-07
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The agency has sufficient funds to implement the proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This does not apply.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 04-05	FY 05-06	FY 06-07
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
RESTRICTED FUNDS* _____			
FEDERAL FUNDS _____			
LOCAL FUNDS _____			
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This does not apply.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

This does not apply.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no impact on competition or employment in the public or private sector from the proposed action.